

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH CALDWELL,

Plaintiff,

vs.

No. CIV 20-0003 JB\JFR

UNIVERSITY OF NEW MEXICO  
BOARD OF REGENTS, NASHA  
TORREZ, LOBO DEVELOPMENT  
CORPORATION, ACC OP (UNM  
SOUTH) LLC, and EDDIE NUNEZ,

Defendants.

**ORDER**<sup>1</sup>

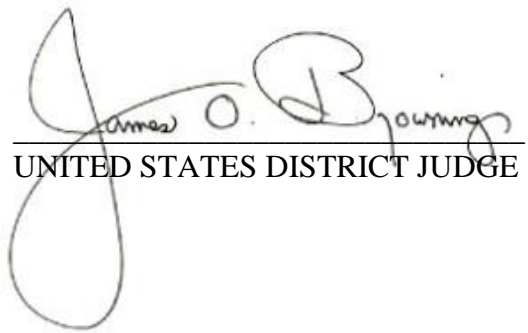
**THIS MATTER** comes before the Court on the Defendant Eddie Nunez’s Motion for Judgment on the Pleadings, filed February 14, 2020 (Doc. 23). The Court held a hearing on April 24, 2020. See Clerk’s Minutes, filed April 24, 2020 (Doc. 36). The primary issue is whether the Court should dismiss the claims against Defendant Eddie Nunez, because the Complaint for Injunctive Relief and Damages, filed January 2, 2020 (Doc. 1), fails to state a claim upon which relief can be granted. See Fed. R. Civ. P. 12(b)(6), (c); Jacobsen v. Deseret Book Co., 287 F.3d 936, 941, n.2 (10th Cir. 2002)(“If the defendant makes [a] motion [under rule 12(b)(6) of the Federal Rules of Civil Procedure] after filing the answer, the motion should generally be treated as a motion for judgment on the pleadings. . . . We use the same standard when evaluating 12(b)(6) and 12(c) motions.” (citing Fed. R. Civ. P. 12(b)(6), (c), (h)(2))). The Court concludes that Nunez

---

<sup>1</sup>This Order disposes of the Defendant Eddie Nunez’s Motion for Judgment on the Pleadings, filed November 4, 2019 (Doc. 23). The Court will issue, however, a Memorandum Opinion at a later date more fully detailing its rationale for this decision. The Court’s current draft of the Memorandum Opinion is 62 pages.

has shown that there are no material issues of fact remaining to be resolved and that he is entitled to judgment as a matter of law. See Mata v. Anderson, 760 F. Supp. 2d 1068, 1082 (D.N.M. 2009)(Browning, J.).

**IT IS ORDERED** that Nunez' Motion for Judgment on the Pleadings is granted.



UNITED STATES DISTRICT JUDGE

*Counsel:*

Justine Fox-Young  
Justine Fox-Young, P.C.  
Albuquerque, New Mexico

--and--

Paul J. Kennedy  
Kennedy, Hernandez & Associates, P.C.  
Albuquerque, New Mexico

*Attorneys for the Plaintiff*

Patrick J. Hart  
Office of University Counsel, University of New Mexico  
Albuquerque, New Mexico

--and--

Alfred A. Park  
Lawrence M. Marcus  
Park & Associates, L.L.C.  
Albuquerque, New Mexico

*Attorneys for Defendants University of New Mexico Board of Regents, and Nasha Torrez,*

Alfred A. Park  
Lawrence M. Marcus  
Park & Associates, L.L.C.  
Albuquerque, New Mexico

*Attorneys for Defendant Eddie Nunez*